

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-THIRD SESSION

g/k

NBI CA. PLC. 2019 / (054)

30<sup>th</sup> July, 2019

PAPER LAID

Pursuant to Standing Order 191 (6), I beg to lay the following Paper on the Table of the Assembly, today Tuesday 30<sup>th</sup> July, 2019.

THE REPORT OF THE SELECT COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE INQUIRY INTO THE DISCHARGE OF INDUSTRIAL EFFLUENT GAS IN NAIROBI COUNTY.

(Chairperson, Select Committee on Environment and Natural Resources)

Copies to:  
The Speaker  
The Clerk  
Hansard Editor  
Hansard Reporters  
The Press

Approved for tabling.  
[Signature]  
30 July 2019



COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY-THIRD SESSION

*Papers laid  
by chair  
Environment  
committee  
on 20/7/19  
H. J. M. 30*

REPORT OF THE SECTORAL  
COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES  
ON THE  
THE INQUIRY INTO THE DISCHARGE OF INDUSTRIAL EFFLUENT GAS IN NAIROBI COUNTY

CLERK'S CHAMBERS,  
CITY HALL,  
NAIROBI

JULY, 2019



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## 1.0 PREFACE

The Sectoral Committee on Environment and Natural Resources for the Second Assembly was established on 5th October 2017 on the floor of the House pursuant to provisions of Standing Order 203.

The Committee's mandate pursuant to the provision of Standing Order 203 –Third Schedule is, amongst others, to investigate, inquire into and report on all matters relating to; “Implementation of specific national government policies on natural resources, environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and refuse removal, refuse dumps and solid waste disposal.”

The Committee exercises its oversight mandate over the Environment and Natural Resources Sub-Sector in the County Executive.

The Committee comprises the following Members:-

1. **Hon. John Kamau, MCA** – Chairperson
2. **Hon. Fredrick Onyango Okeyo** – Vice-Chairperson
3. Hon. Jeremiah Themendu, MCA
4. Hon. James Mwangi Wambui, MCA
5. Hon. Peter Wahinya Njau, MCA
6. Hon. Laura Mwende, MCA
7. Hon. John Kamangu, MCA
8. Hon. Joyce Muthoni, MCA
9. Hon. Mwaura Samora, MCA
10. Hon. Muchene Kabiru, MCA
11. Hon. Susan Makungu, MCA
12. Hon. Silas Ongwae, MCA
13. Hon. Peter Anyule Imwatok, MCA
14. Hon. Emily Wanjiku Waithaka, MCA



15. Hon. Rose Masitsa Shitote, MCA
16. Hon. Jared Ondieki Akama, MCA
17. Hon. Francis Otieno Ngesa, MCA
18. Hon. Solomon Magembe, MCA
19. Hon. Jairus Amukhoye Omayo, MCA

The Committee received a request for statement by Hon. Waithera Chege, MCA regarding the discharge of industrial effluent gas in Nairobi County. The Member specified that residents of South B, along Mombasa Road, particularly near the South B turn-off and Imara Daima Estate, have since 2014 complained of a foul, pungent and often nauseating smell that emanates from the factories in the vicinity. The Member stated that the foul smell is prevalent especially over the weekends and in the early evenings on weekdays. Despite protests from residents, the National Environment Management Authority (which coincidentally has an office adjacent to these areas) has not seen it fit to take decisive action, and neither has the County Government.

In order to ascertain the issues raised and make a comprehensive report to the Assembly, the Committee resolved to conduct a joint site visit with the County Executive sub-sector on Environment and Natural Resources and National Environment Management Authority (NEMA) to the affected area on **Wednesday 27<sup>th</sup> March 2019 at 10:00 a.m.** The Committee was also accompanied by Mr. Chris Njuguna and Mr. Stephen Mbuvi residents of from Eagle Plains Estate, in South B.

The Committee also held a meeting with the CECM responsible Environment, Water, Energy and Natural Resources and Hon. Waithera Chege, MCA on **Tuesday 26<sup>th</sup> March, 2019 at 11.00am.** An invitation was also extended to The Director General and the County Director NEMA who did not attend the Committee meeting, however they were represented by the County Director during the site visit to Powerex Lubricants Limited on Wednesday 27<sup>th</sup> March, 2019.



## Acknowledgement

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee to enable members undertake the inquiry.

On behalf of the Committee, I now have the honour and pleasure to present this report on the Committee inquiry into the discharge of industrial effluent gas in Nairobi County.

Signed.....

Hon. John Kamau, MCA

(Chairperson)

**Sectoral Committee on Environment & Natural resources**

Dated this 25<sup>TH</sup> ..... day of JULY .....2019

## 2.0 INTRODUCTION

- i.) The Constitution at Paragraph 3 of Part 2 of the Fourth Schedule gives responsibility of control of air pollution and other public nuisances.
- ii.) The Committee resolved that a comprehensive inquiry on the discharge of industrial effluent gas in Nairobi County be conducted especially in South B Ward where residents had raised concerns over of a foul, pungent and often nauseating smell that emanates from the factories in the vicinity. As such, the Committee conducted a site inspection visit to Powerex Lubricants Ltd and also held a meeting with the CECM Water, Energy, Environment and Natural Resources to gather information on the discharge of toxic gases in South B Ward.

## 3.0 COMMITTEE FINDINGS

### 3.01 Meeting with the CECM responsible for Water, Energy, Environment and Natural Resources

The CECM appeared before the Committee on Tuesday 26<sup>th</sup> March, 2019. While responding to Hon. Waithera Chege's statement, the Chief Officer, Environment and Natural Resources informed as follows:

1. That County sub-sector on Environment and Natural Resources officers visited companies which are geographically located within a radius of 1 Km from South B estate. Criteria of study included a site visit to those companies that have industrial processes that emit gases to the environment. Companies with chimneys were identified for assessment.
2. That the sub-sector is in the process of formulating a County air quality policy which will govern and give standards to be adhered to by industries and other potential sources of air pollution.
3. That the County Government is also in the process of procuring air quality kits and intends to have one of the kits to be placed at identified hot spot areas including south B. It is expected that the equipment will be delivered before the end of this financial year.
4. That a company which deals with refining of auto oil, Powerex Lubricants Limited, had been closed and case was taken to court by Kenya Bureau of Standards (KBS) on the same subject dated, Vide Case No. 364 of 2015.

5. That site visit to the companies were conducted and revealed that they have been undertaking environmental audits and submitting the same to NEMA as required by The Environmental (Impact Assessment and Audit) Regulations, 2003.
6. That after the assessment of air quality using the air quality monitoring kits the results will be able to give direction on what chemical components are causing the pollution and thus the sub-sector can narrow down to individual companies and take appropriate measures as guided by law.
7. That at the moment the sub-sector has no capacity to carry out air quality tests because it has no air pollution kits.

#### **4.0 COMMITTEE OBSERVATIONS DURING THE SITE VISIT**

The Committee visited Powerex Lubricants Ltd in South B Ward on Wednesday 27<sup>th</sup> March, 2019. The Committee met the General Manager who briefed the Members on the operations of the Company. Thereafter the Technical Engineer Eng. Maurice Ochieng, took the Committee through the production line.

During the site visit, the committee made the following observations;

1. That the Company was operational despite the Sector stating that it had been closed and case was taken to court by NEMA;
2. That there was foul nauseating smell when the Committee reached the Company informing on its presence or the location;
3. That there was no sign post/board of the company, notifying of the company's premises;
4. The company's website is not operational and hence scant information on its operations are available;
5. That used oil was transported to the Oil Recycling Plant by handcarts contrary to the General Manager's statement that only the company's licensed vehicles transport the oil;

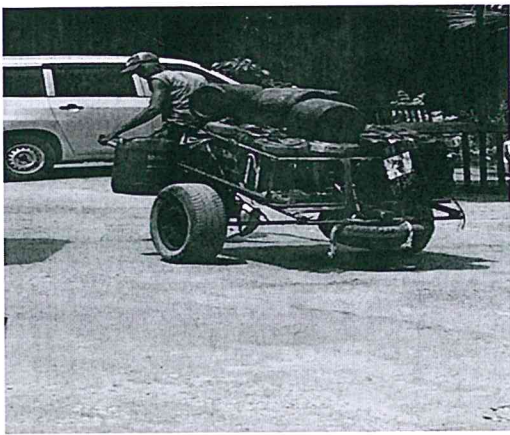


6. That the Company's employees had no sufficient protective gear, evidenced by some of the workers working without Personal protective equipment (PPE), i.e. hand and foot protection;
7. Used oil is heated under vacuum distillation process hence emitting gaseous by-product. The gas emitted pass through wet scrubbers before its release to the air.
8. That NEMA has received endless complaints of foul smell that emanate from the factories in South B Ward and Powerex was adversely mentioned.
9. The complaints led to the Kenya Bureau of Standards Vs. Powerex Lubricant Limited court case in 2015; See annex (an appeal from the judgment and decree of the High Court of Kenya).
10. NEMA stated that Powerex Company has been submitting environmental audit reports as is required by law (EIA/EA Regulations, 2003 and Environment Management and Coordination Act, 1999).
11. That Powerex Company applied for air quality licenses from NEMA and was issued since the company met the standards.

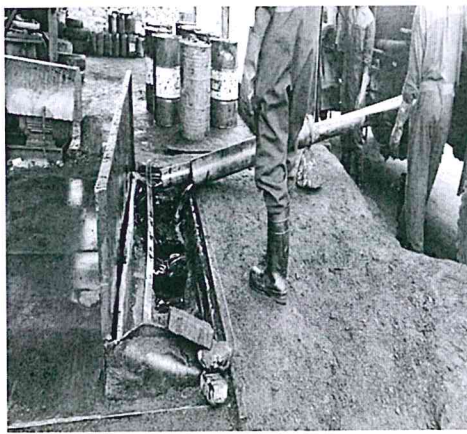


Powerex Ltd General Manager briefing the Committee on its operations

County Director, NEMA briefing the Committee during its site visit to Powerex Lubricants Ltd



Handcart transporting used oil to Powerex Ltd



Powerex Ltd staff depositing used oil in a storage tank



Eng. Maurice Ochien'g briefing the Committee on the production line (from used oil to base oil)



## 5.0 COMMITTEE RECOMMENDATIONS

The Committee recommends that this Assembly resolves as follows;

- 1) That the Environment and Natural Resources sub-sector should fastrack the procurement of air sampling kits to aid in monitoring compliance to air quality standards.
- 2) That the County Government together with other responsible government agencies should continuously monitor the industries alleged to be emitting pollutants into the atmosphere not just within the South B area but also in the whole Nairobi City County.
- 3) That the County Government together with other responsible government agencies proceed as soon as practically possible and conduct an audit of all industries that do not conform to the Environmental Management and Coordination (Air Quality) Regulations, 2014, within a period of three (3) months and table a report to the County Assembly on the exercise upon completion.
- 4) That random regular air quality inspection be done so as to ensure that industries in the County fully and continuously put in place measures to regulate their emission levels to the atmosphere as stipulated in the Air Quality Regulations 2014.
- 5) That the relevant County Executive Sector urgently review the County zoning policy and ensure that the zoning plans are strictly implemented to avoid conflict arising from manufacturing zones and residential zones, as a result of industrial operations.

MINUTES OF THE 44<sup>TH</sup> SITTING OF THE SECTORAL COMMITTEE ON  
ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 25<sup>TH</sup> JULY, 2019  
AT 11.00 A.M IN COMMITTEE ROOM 6

PRESENT

1. Hon. Fredrick Onyango Okeyo, MCA Vice-Chairperson
2. Hon. Emily Wanjiku Waithaka, MCA
3. Hon. Rosemary Masitsa, MCA
4. Hon. Mwaura Samora, MCA
5. Hon. Solomon Magembe, MCA
6. Hon. Francis Otieno Ngesa, MCA
7. Hon. Millicent Okatch, MCA
8. Hon. Jeremiah Themendu, MCA
9. Hon. Muchene Kabiru, MCA

ABSENT

1. Hon. John Kamau, MCA Chairperson
2. Hon. James Mwangi Wambui, MCA
3. Hon. Joseph Ndonji, MCA
4. Hon. Peter Imwatok, MCA
5. Hon. Peter Wahinya Njau, MCA
6. Hon. Susan Makungu, MCA
7. Hon. Silas Ongwae, MCA
8. Hon. Joyce Muthoni, MCA
9. Hon. Laura Mwendu, MCA
10. Hon. John Kamangu, MCA

SECRETARIAT

Ms. Hellen Mutie

– COUNTY ASSEMBLY

– Committee Clerk

Agenda

1. Preliminaries (prayers & adoption of the Agenda)
2. Consideration and adoption of the report on the inquiry into the discharge of industrial effluent gas in Nairobi County
3. Any Other Business
4. Adjournment

Min. No.175/e&nw /July/2019: Preliminaries

The Vice-Chairperson called the meeting to order at 11.16am and said the prayers. He stated that under agenda number two (2) the Committee was scheduled to consider and adopt the report on the inquiry into the discharge of industrial effluent gas in Nairobi County and that Members were open to add/provide their observations and recommendations. The agenda was then adopted for discussion as proposed by Hon. Jeremiah Themendu and seconded by Hon. Francis Ngesa.

Min. No.176/e&nw /July/2019: Consideration and adoption of the report on the inquiry into the discharge of industrial effluent gas in Nairobi County

The Committee clerk tabled the report on the inquiry into the discharge of industrial effluent gas in Nairobi County. The Vice- Chairperson took members through the report.



The Committee agreed with its contents and resolved that it be adopted for tabling in the Plenary as proposed by Hon. Emily Waithaka and seconded by Hon. Rosemary Masitsa.

Min. No.177/e&nw /July/2019: Any Other Business

Members enquired on the Committee quarterly retreat dates. The Committee clerk informed stated that the said retreat dates would be communicated once the retreat schedule by the Liaison Committee was out.

Min. No.178/e&nw /July/2019: Adjournment and date of next meeting

There being no other business for the day, the meeting was adjourned at 11.52am. The next meeting would be held on Tuesday 30<sup>th</sup> July, 2019 at 11:00 a.m. in Committee Room 2, City Hall Building.

SIGNATURE .....  
(CHAIRPERSON)

DATE 30/7/2019.....